

**Sec. 42-234. Abnormal market disruptions and prices of energy resources. Definitions. Unconscionably excessive price prohibited. Attorney General notice re abnormal market disruption. Ability of Commissioner of Consumer Protection or courts to establish acts or practices as unfair or unconscionable not limited.** (a) As used in this section:

(1) "Energy resource" shall include, but not be limited to, middle distillate, residual fuel oil, motor gasoline, propane, aviation gasoline and aviation turbine fuel, natural gas, electricity, coal and coal products, wood fuels and any other resource yielding energy;

(2) "Seller" shall include, but not be limited to, a supplier, wholesaler, distributor or retailer involved in the sale or distribution in this state of an energy resource;

(3) "Abnormal market disruption" refers to any stress to an energy resource market resulting from weather conditions, acts of nature, failure or shortage of a source of energy, strike, civil disorder, war, national or local emergency, oil spill or other extraordinary adverse circumstance;

(4) "Margin" means, for each grade of product sold, the percentage calculated by the following formula: One hundred multiplied by a fraction, the numerator of which is the difference between the sales price per gallon and the product price per gallon and the denominator of which is the product price per gallon. For purposes of this subdivision, "product price per gallon" includes all applicable taxes;

(5) "Notice" means a posting made by the Attorney General pursuant to subsection (d) of this section announcing the inception and end date of any abnormal market disruption or the reasonable anticipation of any imminent abnormal market disruption.

(b) No seller during any period of abnormal market disruption or during any period in which an imminent abnormal market disruption is reasonably anticipated shall sell or offer to sell an energy resource for an amount that represents an unconscionably excessive price.

(c) Evidence that (1) the amount charged represents a gross disparity between the price of an energy resource that was the subject of the transaction and the price at which such energy resource was sold or offered for sale by the seller in the usual course of business immediately prior to (A) the onset of an abnormal market disruption, or (B) any period in which an imminent abnormal market disruption is reasonably anticipated, and (2) the amount charged by the seller was not attributable to additional costs incurred by the seller in connection with the sale of such product, shall constitute prima facie evidence that a price is unconscionably excessive.

(d) The Attorney General shall post a notice on the home page of the Internet web site of the office of the Attorney General announcing the inception and end date of any abnormal market disruption or the reasonable anticipation of any imminent abnormal market disruption.

(e) Notwithstanding the provisions of subsections (b) and (c) of this section, it shall not be a violation of this section if a seller sells or offers to sell motor gasoline during an abnormal market disruption or any period in which an imminent abnormal market disruption is reasonably anticipated if the seller's average margin for such motor gasoline during the longer of the

following: (1) Any such period of abnormal market disruption or imminent abnormal market disruption, or (2) thirty days following the date notice was provided by the Attorney General pursuant to subsection (d) of this section, is not greater than such seller's maximum margin on the sale of such motor gasoline during the ninety-day period prior to the onset of the abnormal market disruption or period in which an imminent abnormal market disruption is reasonably anticipated.

(f) This section shall not be construed to limit the ability of the Commissioner of Consumer Protection or the courts to establish certain acts or practices as unfair or unconscionable in the absence of abnormal market disruptions.

(Oct. 25 Sp. Sess. P.A. 05-2, S. 10; Oct. 25 Sp. Sess. P.A. 05-4, S. 3; P.A. 10-176, S. 2.)

History: Oct. 25 Sp. Sess. P.A. 05-2 effective October 31, 2005; Oct. 25 Sp. Sess. P.A. 05-4 amended Subsec. (a)(3) to make a technical change, effective December 1, 2005; P.A. 10-176 amended Subsec. (a) to add Subdivs. (4) and (5) defining "margin" and "notice", added new Subsec. (d) re Attorney General posting notice, added Subsec. (e) re average margin for sales or offers that are not a violation of section and redesignated existing Subsec. (d) as Subsec. (f), effective July 1, 2010.